

**Tennessee Board of Medical Examiners  
August 24, 2004**

**Teleconference Minutes**

A teleconference for the Board of Medical Examiners was held at 4:10 p.m. in the Cumberland Room located on the First Floor of the Cordell Hull State Office Building on August 24, 2004.

Members in attendance electronically: Dr. Subhi Ali, Ms. Nina Yeiser

Member in attendance: Dr. Sam Barnes

Staff Present: Rosemarie Otto, Executive Director; Dr. Larry Arnold, Medical Director; Robert J. Kraemer, Jr., General Counsel; Sandra Powell, Administrator, Marsha Arnold, Unit Manager

A teleconference was held to summarily suspend the medical license of Rosaire Dubrule, MD.

A roll call of the panel was held to determine if each participant could hear the response of the other. Dr. Ali made a motion to proceed to conduct the meeting electronically and Ms. Yeiser seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously.

A motion was made by Dr. Ali to proceed to conduct the meeting electronically by determining that the matter to be discussed met the following requirements: The subject matter required timely action, the physical presence of all members was not possible considering the period of time required for action, and the participation by some or all of the members of the board by electronic or other means was necessary. Ms. Yeiser seconded the motion. A roll call vote was held to accept the motion and the motion was adopted unanimously. Ms. Arnold reminded members to please identify themselves when speaking and turned the meeting over to Mr. Kraemer from the Office of General Counsel.

Mr. Kraemer addressed the panel and reminded the panel that they are charged with protecting the health, safety and welfare of the public. He then asked the members to elect a chair for the proceeding. Dr. Ali made a motion and Ms. Yeiser seconded that Dr. Barnes chair the meeting. A roll call vote was held to accept the motion and the motion was adopted unanimously.

Ms. Shirley Corry, General Counsel for the Office of General Counsel and attorney for the state, requested the court reporter to swear in Agent Brent Booth, Martha Bachelor, RN and Larry Arnold, M.D. as witnesses.

Mr. Brent Booth, TBI agent, was the first to testify. The TBI executed a search warrant (currently under seal) to search the office of Dr. Dubrule. Agent Booth stated that when he and other officers/agents entered the office of Dr. Dubrule, both the doctor and his wife were armed and that

Ms. Dubrule appeared to be under the influence. Agent Booth disarmed both Dr. Dubrule and his wife and he and other agents/officers secured all the weapons (sixteen) located in the office. Agent Booth then testified as to the condition of the office and Ms. Corry introduced (marked as Exhibit A to Agent Booth's testimony) a series of photographs taken at the time of entry into the premises. The photographs depicted an office described as filthy, unkept, devoid of running water, soap and towels and reeking of smells described as old body fluids, decaying carpet and mold. The Board asked if the Dubrules had permits to carry weapons and Agent Booth said they did. At the time of the search, agents/officers seized medical records (unsecured and scattered about the office in plain view of anyone entering the premises, including patients), hydrocodone, sample medications (also scattered about the office and unsecured), administrative records, out of date medications, and a used syringe containing an unidentified fluid. Agent Booth testified that at least one loaded weapon was in the examination room and one loaded rifle was in a locked cabinet in the reception area.

Ms. Martha Bachelor, RN for the Medicaid Fraud Unit for the TBI, was called and testified as to the condition of the building upon her entry into the premises. When Ms. Bachelor arrived, the weapons had been secured by the agents/officers at the scene. Ms. Bachelor reviewed pictures of the premises with the Board including those pictures in an area described as the "lab." Ms. Bachelor testified that Dr. Dubrule was performing a variety of "lab tests," including pregnancy, strep and diabetes without a CLIA certificated. Ms. Bachelor described the conditions in the "lab" as filthy with no running water, soap or towels. Ms. Bachelor reviewed photographs of an area described as the "kitchen" which featured a refrigerator that contained vaccines that had expired as long ago as 2000. Contained in the refrigerator with the expired medications were various food items and an unopened bottle of beer. Ms. Bachelor described the "kitchen" as so filthy she could barely get to the refrigerator and the odor as wretching. Ms. Bachelor described one examination room as contained a dirty, filthy suction machine. Ms. Bachelor testified that the office was in total disarray with medical records, sample medications and "collectibles" thrown and scattered everywhere. She described a "Craftsman-type" tool box used to house office instruments such as scissors, hemostats and retractors. There was no autoclave or any other device to sterilize the equipment. There was a lubricant of some type in the office that staff used when the equipment did not work properly. Ms. Bachelor testified that she found no financial records, receipt books or journals in the front office area. Ms. Bachelor described the condition of Ms. Dubrule as sobbing, shaking, and unstable. She said that at one point, Ms. Dubrule was negotiating with herself and agents/officers to get some hydrocodone. She asked Ms. Bachelor to try to get her some hydrocodone because the agents/officers had seized the office supply and she was in need of her pain medication. Ms. Bachelor testified that after Ms. Dubrule left the office she returned some time later and had settled down considerably and appeared under the influence. Finally, Ms. Bachelor testified that Dr. Dubrule generally saw as many as sixty patients per day and that there was a sign in the office that said office visits were one hundred dollars (\$100) per visit with a ten percent (10%) discount and initial office visits were one hundred fifty dollars (\$150). Dr. Dubrule accepts cash only and does not accept insurance

Larry Arnold, M.D., Medical Director for the Board of Medical Examiners was the state's third and final witness. Dr. Arnold testified as to the standard of care for a physician practicing medicine in Tennessee vis-à-vis medical records, financial records, cleanliness and sanitation requirements. He testified that in no way had Dr. Dubrule met the standard of care. Dr. Arnold

further stated that he reviewed the documents/pictures submitted by the TBI and determined that the environment in Dr. Dubrule's office in no way rose to the level expected of healthcare practitioners in the state of Tennessee citing the presence of loaded weapons in plain view of and easily accessible to patients, security of sample medications, the presence of pre-printed and unsecured prescription pads and various violations of the rules and regulations of both OSHA and CLIA.

Ms. Corry made a closing statement and urged the Board to summarily suspend the license to practice medicine of Dr. Dubrule. She submitted for the Board's consideration a proposed order for their use during their deliberations.

Dr. Barnes read to the other Board members the suggested findings of fact and conclusions of law. Dr. Ali made a motion to accept both and Ms. Yeiser seconded the motion. The roll call vote was unanimous.

Dr. Ali made a motion to summarily suspend Dr. Rosarie M. Dubrule's license to practice medicine in the State of Tennessee and Ms. Yeiser seconded the motion. The motion was unanimous by roll call vote.

Dr. Barnes stated the summary suspension of Dr. Dubrule's license was to protect the health, safety and welfare of the citizens of Tennessee who were in immediate danger and that action was imperatively required.

The meeting was concluded at 6:15 p.m.

These minutes were ratified by the Board on September 21, 2004.

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